

**SEPTEMBER 24, 2003**

**SCHAKOWSKY FIGHTS FOR CIVIL LIBERTIES AND RIGHT TO DUE PROCESS**

**WASHINGTON, D.C. - U.S. Representative Jan Schakowsky (D-IL) today applauded the introduction of the True Patriot Act, a bill to repeal portions of the Patriot Act that violate civil liberties and the right to due process. The chief sponsor of the True Patriot Act is U.S. Representative Dennis Kucinich (D-OH).**

**"I voted against the Patriot Act two years ago and I continue to remain skeptical of its effectiveness at keeping us safe. The Patriot Act violates our civil liberties and right to due process and unnecessarily targets immigrants," Schakowsky said during a news conference on Capitol Hill.**

**Schakowsky added that almost 200 other cities throughout the country, including her hometown of Evanston, have enacted similar resolutions. The City Council in Chicago is also scheduled to debate a proposal tomorrow that calls on Congress to "monitor the implementation of the [Patriot] Act and Orders cited herein and actively work to repeal the Act and those Orders that violate fundamental rights and liberties as stated in the U.S. Constitution and its Amendments."**

**"We can security and civil liberties at the same time. That is the spirit of the True Patriot Act," Schakowsky concluded.**

**Below is a summary of the Benjamin Franklin True Patriot Act:**

**Benjamin Franklin True Patriot Act**

**Repealed Sections of the USA PATRIOT Act:**

**Section 213, Sneak and Peak Searches - Allows property to be searched and seized in secret, without noticing a subject of the existence of a warrant.**

**Section 214, Pen Register for Foreign Intelligence - Allows for pen register or trap and trace devices under the Foreign Intelligence Surveillance Act (FISA) that capture detailed Internet information without any requirement of probable cause or individualized**

suspicion that the target of the surveillance is involved in terrorism, espionage or other crime.

**Section 215, Business Records - Allows for the secret searching of personal records with no probable cause or individualized suspicion that the record pertains to terrorism, espionage, or another crime.**

□

**Section 216, Pen Register for Criminal Cases - Allows for pen register or trap and trace devices that capture detailed Internet information without any requirement of probable cause of criminal intent.**

**Section 218, Major FISA provision -- Allows the use of secret wiretaps originally intended only for foreign intelligence gathering to be used for criminal investigations.□**

**Section 411, New Grounds for Deportation - Prohibits representatives and their families of foreign organizations that are identified as "terrorists" from entering or staying in the country.□ Allows Secretary of State to designate any group, foreign or domestic, as a "terrorist" group without any oversight of that decision. Makes solicitation of funds or material support for groups NOT officially designated as "terrorist organizations" a deportable offense unless the person can prove that he "did not know, and should not reasonably have known, that the solicitation would further the organizations' terrorist activity.□**

**Section 412, Mandatory Detention of Immigrants - Allows suspects convicted of no crime to be detained indefinitely in 6 month increments without meaningful judicial review.**

**Section 505, National Security Letters -- Allows the FBI to obtain detailed information on people without a court order.□ □**

**Section 507, Educational Records --□ Allows for the disclosure of private educational records to the Attorney General in any "terrorist" investigation.**

**Section 802, Definition of Domestic Terrorism -- Broadens the definition of "domestic terrorism" to cover even individuals or organizations engaging in standard political protests.□**

#### **Other Repealed Provisions:**

- . **Section of Aviation Security Act that requires screeners be U.S. citizens.□**
- . **Overbroad FOIA exemption for the Department of Homeland Security.**
- . **Department of Justice secrecy orders that exempted many DOJ documents from FOIA requests.**
- . **Regulation that allows for Attorney-Client Monitoring**
- . **New guidelines on religious institution spying, which allowed the FBI to conduct undercover investigations of religious centers.□ Reinstates previous guidelines.**

**Repeals of Special Immigration Detention Regulations and Policy Changes Since 9/11:**

□

**Time held without charges - 48 hours plus reasonable time:□ □**

Non-citizens residing in the United States today live in constant fear of arbitrary arrest and deportation. As a result of a regulatory change unilaterally approved by the Bush Administration, non-citizens can be arrested without charge by immigration officials and held for what the Department of Justice calls a "reasonable time" but which, in practice, has resulted in numerous detentions that have lasted weeks and weeks, even in the face of the seven-day limit Congress imposed in section 412 of the PATRIOT Act.

**Automatic stays for government in immigration hearings:**

Responding to questions concerning its blanket detention policy in September 11th "special interest cases," the government issued new regulations allowing it automatically to prevent any order from an Immigration Judge allowing a detainee release on bond from going into effect. Even if the detainee can persuade the Board of Immigration Appeals to affirm the release order, the government can still keep a detainee in prison while it certifies the request to the Attorney General. No standards govern the granting of a stay in these cases; it is simply at the discretion of the government. These new "automatic stay" rules effectively render bond hearings meaningless in individual cases at the request of the government.

**10-Day change of address rule:**

Repeals regulations proposed after the PATRIOT Act that makes immigrants subject to deportation if they fail to file a change of address with the immigration service within 10 days of moving. This extraordinary regulation, which violated the government's own prosecution guidelines, was followed by an announcement that the Department of Justice would enforce this previously obscure law at its discretion, prompting an avalanche of change of address forms that INS employees were now expected to process.

**BIA restructuring:**

Repeals the "Creppy memo" on closed immigration hearings. The "Creppy memo" mandates closed immigration hearings for certain cases - this includes even confirming whether a particular case is on the docket. The regulation restructured the Board of Immigration Appeals (BIA), which is often the last hope for immigrants in deportation proceedings, so as to afford immigrants less judicial review. In addition, this regulation was used to shrink the size of the BIA - at a time when the BIA's caseload continues to increase - and dismiss the immigrant-friendly Board members.

**The use of local law enforcement to enforce immigration laws:**

Under a new legal opinion (which was not publicly issued) that erases decades of practice by the Department of Justice, the Department's Office of Legal Counsel has asserted that state and local law enforcement officials have, in certain circumstances, an "inherent power" to enforce the civil provisions of the immigration laws. Thus, state and local police can arrest non-citizens who are suspected of violating no criminal law, but

simply of overstaying a visa or committing some other civil violation of their immigration status. This opinion was issued with opposition coming not only from advocates for immigrants and civil liberties, but also from chiefs of police and local officials who rejected the invitation of the Department of Justice to become immigration enforcement officers.

### **NSEERS:**

The NSEERS program, which required male immigrants from certain countries - all Arab or Muslim countries - to "register" with their local immigration offices, at which time they were often subjected to a detailed interview that often involved questions about First Amendment protected activities, such as religious and political practices and beliefs. Those who registered, but were found to be in violation of immigration laws (for overstaying a visa, for example) were placed in deportation proceedings. There have been 13,000 notices to appear issued under this program.

**Ninety-Day Review Period:** The True Patriot Act provides for a 90-day review period for Congress to hold hearings to determine whether any particular section of the bill should not be enacted, allowing for a full and open debate on the powers repealed by this bill.